

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

JOSEPH J. FALCETTA, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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Case No. 6:20-cv-350-JDK-KNM

Criminal Case No. 6:96-cr-59

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Movant Joseph James Falcetta, Jr., a federal prisoner confined at Federal Correctional Institution Bastrop, brings this motion to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255. The motion was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition of the case.

On December 6, 2022, Judge Mitchell issued a Report and Recommendation recommending that the Court deny the motion and dismiss this case without prejudice for lack of jurisdiction. Docket No. 2. A copy of this Report was mailed to Movant at his last-known address. To date, Movant has not objected to the Report or otherwise communicated with the Court.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court

examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Movant did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 2) as the findings of this Court. Movant's § 2255 motion for habeas corpus is hereby **DENIED** and this action is **DISMISSED** without prejudice. The Court **DENIES** a certificate of appealability.

So **ORDERED** and **SIGNED** this **24th** day of **April, 2023**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE